

Message Text

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PAGE 01 STATE 028305

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TO AMEMBASSY CARACAS

INFO AMCONSUL MARACAIBO

UNCLAS STATE 028305

E.O. 11652: N/A

TAGS: ASAF, APER, VE

SUBJECT: MARACAIBO TRAFFIC ACCIDENT

REFS: (A) CARACAS 388, (B) STATE 282546, (C) STATE 271219

1. EMBASSY REPORTING APPRECIATED BUT DEPT CANNOT PROPERLY ASSESS NOR RESPOND TO RECOMMENDATION CONTAINED IN PARAS 2(F) AND 3, REFERENCE (A), CONCERNING COMPENSATION IN EXCESS OF INSURER'S CONTRACT LIMITS WITHOUT AN EXAMINATION AND CONSIDERATION OF INJURED PARTY'S CLAIM AND EVIDENCE IN SUPPORT OF IT.

2. IN CIRCUMSTANCES, REQUEST THAT CLAIMANT FILE WITH DEPT, THROUGH EMBASSY, FINAL CLAIM EVIDENCE, AND ENGLISH TRANSLATIONS OF SPANISH DOCUMENTS (SEE PARA 3(B) REFERENCE (C)), IN SUPPORT OF CLAIM. CLAIM SHOULD BE LIMITED TO AMOUNT ABOVE THAT WHICH INSURER AGREES TO PAY. GUIDELINES REGARDING FILING OF CLAIM AND EVIDENCE TO BE FURNISHED ARE STATED IN 2 FAM 281.4-2 ET SEQ. THE INSURER SHOULD ALSO FURNISH INFO REGARDING CURRENT COURT JUDGMENTS, SETTLEMENTS IN SIMILAR PERSONAL INJURY AND PROPERTY DAMAGE CLAIMS, AND EVIDENCE OF AMOUNT PAID CLAIMANT IN SETTLEMENT

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PAGE 02 STATE 028305

OF ITS RESPONSIBILITY.

3. WHILE DEPT DESIRES TO BE FULLY RESPONSIVE TO CLAIMS WHERE LIABILITY IS ESTABLISHED, IT IS OBLIGATED TO DETERMINE THE AMOUNT OF COMPENSATION IT MAY ADDITIONALLY PAY TO THE INJURED PARTY IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL TORT CLAIMS ACT.

4. UPON THE RECEIPT OF FOREGOING, THE DEPT WILL COMMENT UPON THE RECOMMENDATION. IN THIS CONNECTION, NO PAYMENT WILL BE MADE UNTIL THE INSURER COMPENSATES CLAIMANT IN ACCORDANCE WITH CONTRACT OF INSURANCE. KISSINGER

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